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Pleasanton housing cap violates law, judge says

Bob Egelko, Chronicle Staff Writer
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(03-15) 17:43 PDT PLEASANTON -- Pleasanton's voter-approved cap on the number of residences in the city, a measure intended to limit growth and congestion in the town, violates a state law requiring all cities to take on their share of regional housing needs, an Alameda County judge has ruled.

The ruling is the first by a California judge to require a city to change its zoning to accommodate new housing, said attorney Richard Marcantonio of the nonprofit Public Advocates firm, which represented the plaintiffs in a lawsuit seeking to overturn the cap.

Those plaintiffs said Pleasanton was welcoming employees to office parks and other businesses, but forcing other cities to house them.

"Pleasanton imports workers to fill thousands of jobs but excludes those workers and their families from a chance to live in the community," Marcantonio said. "Now there's a chance for people to live in the city that they contributed to building."

Pleasanton can't comply with the state law requiring it to build its fair share of housing because of a ballot measure, passed in 1996 and reaffirmed by voters in 2008, that allows no more than 29,000 units in the city, Superior Court Judge Frank Roesch said Friday.

Pleasanton had 21,180 homes, apartment units and condominiums in 1996 and now has more than 27,000. Its population is 68,000.

Roesch ordered the city to disregard the limit and remove regulatory barriers to construction of about 4,000 new housing units by 2014. At least three-quarters of them must be affordable for low- to moderate-income residents.

The affordable housing includes about 800 low-cost units that should have been completed by 2007, according to the regional agency that sets minimum housing requirements for Bay Area communities. Roesch told city officials to rezone enough land to build those units quickly.

Pleasanton now has 40,000 weekday commuters, and the number is likely to grow because of a revised general plan the City Council approved in July. It calls for more office construction and the creation of 45,000 jobs by 2025.

Pleasanton officials were reviewing the ruling Monday and had no comment, said city spokeswoman Joanne Hall. The city's lawyers have argued that the housing limit is a valid exercise of municipal land-use authority. The city could appeal the ruling.

The suit was filed in 2006 by the nonprofit Urban Habitat Program and a schoolteacher seeking affordable housing. It was joined last year by state Attorney General Jerry Brown, who said Pleasanton's housing limits

added to urban sprawl and led to increased vehicle use, air pollution and greenhouse gas emissions.

The Association of Bay Area Governments, the organization of local officials that decides each city's housing allotment, assigned 5,059 housing units to Pleasanton for 1999-2007 and another 3,277 units for 2007-14. Roesch said the city had failed to meet the 2007 total and couldn't comply with the 2014 allotment if its housing limit remained in effect.

"The city is in clear violation" of the state housing law, the judge said.

He said the City Council took a small step in December to expand housing by approving the rezoning of unused land in the Hacienda Business Park, near the Dublin/Pleasanton BART Station. But the ordinance allows city officials to reject construction plans for "good cause," a vague standard that could discourage development, Roesch said.

The city "must implement non-illusory zoning changes," he said.

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